IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 587/2006

SURENDRA KUMAR Vs. GOKUL PRASAD SHARMA

DATE: 02.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Shiv Charan Gupta for the accused-petitioner.
Mr. Sudesh Bansal for the complainant-non-petitioner.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioner against the order dated 17.04.2006 passed by the Additional Sessions Judge, Jhunjhunu in Criminal Revision Petition No. 219/2005, whereby the application of the complainant moved under Section 311 Cr.P.C. has been allowed and the order of the Judicial Magistrate, Udaipurvat dated 18.08.2005 has been set-aside.

Learned counsel for the accused-petitioner submits that the trial Court has rightly rejected the application under Section 311 Cr.P.C. as the application cannot be allowed to fill up the lacuna.

Aggrieving and dissatisfying with the impugned order passed by the trial Court, the complainant-

respondent preferred a criminal revision and the Revisional Court having considered each and every aspect observed that it is not for fill up the lacuna but it is essentially required to examine the Manager because the Manager has deposed in his chief that he cannot state whether cheque was presented on 15.10.2003 or 15.12.2003 and he can verify this fact after showing the record, therefore, the Revisional Court in the interest of justice thought it proper that the Manager be called for examination along with the record of the bank as it is necessary to decide the present dispute and the record is essentially required and the verification of the presentation of the cheque is crucial to decide the present controversy.

Thus, the Revisional Court has not committed any wrong while passing the impugned order dated 17.04.2005 allowing the application of the complainant moved under Section 311 Cr.P.C.

The judgments referred by the learned counsel for the accused-petitioner are not applicable to the facts and circumstances of the present case.

In my considered opinion, examination of the Manager to verify the crucial fact of the presentation of the cheque is essentially required to decide the present controversy. Hence, I find no illegality or

error in the impugned order dated 17.04.2006 passed by the Additional Sessions Judge, Jhunjhunu and no interference whatsoever is required by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/